

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	
)	
Thomas J. Reddin, et al.)	
)	Group Art Unit: 3622
Serial No. 09/296,120)	
)	Examiner: Janvier, J.D.
Filed: April 21, 1999)	
)	
For: METHODS AND SYSTEMS FOR)	
OCCASION BASED LIFESTYLE)	
MARKETING)	

REPLY BRIEF

Mail Stop Appeal Brief - Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: Board of Patent Appeals & Interferences

Dear Sirs:

Responsive to the Examiner's Answer of March 14, 2007, the Applicant herein submits this reply brief pursuant to MPEP § 1208.

In attempting to support the anticipation rejections, the Examiner repeatedly argues that the terms "consumer lifestyle data" and "consumer market data" are essentially interchangeable with each other and with demographic and socio-economic consumer information in general. As such, these limitations are inherent. (Page 20). The Applicant submits that the Examiner has misconstrued the nature of the limitations and essentially conceded the patentability of the claims.

The Examiner repeatedly states that the consumer lifestyle and market data limitations are similar to demographic and socio-economic consumer information in general. (Page 18). The Examiner is correct as to the source of the data. The source of the data, however, is irrelevant. At issue are the claim limitations as a whole. Specifically, “determining one or more representative activities of said predetermined type of consumer based upon the consumer lifestyle data” and “determining one or more representative uses of said item by said predetermined type of consumer during one or more representative activities based upon the consumer market data.” In other words, although the lifestyle or the market data or at least their sources may be somewhat similar, the specific uses of that data are clearly stated, *i.e.*, determining one or more representative activities and determining one or more representative uses. The specific activity and use limitations clearly are not found in the cited references. The fact that consumer or market data have been gathered in the past is not determinative of the limitations as a whole.

With respect to the inherency argument, the Examiner is conceding that the activity and use limitations are not found in the references. As such, the rejection cannot stand. Even the section cited by the Examiner of the MPEP establishes this point:

To serve as an anticipation when the reference is silent about the asserted inherent characteristic, such gap in the reference may be filled with recourse to extrinsic evidence. Such evidence must make clear that the missing descriptive matter is *necessarily present* in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.

MPEP § 2131.01 (III). (Emphasis added.)

In this case, there is simply no argument to be made that the claimed activity and use limitations are “necessarily present” in the cited references. As such, the rejections must fail.

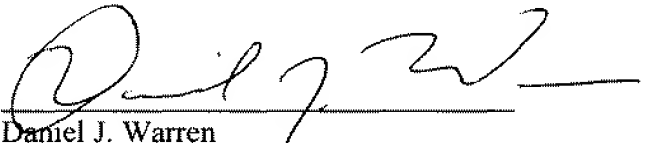
MARKETING MANAGEMENT

The Applicant assumes that the reference to the MARKETING MANAGEMENT textbook does not constitute a new grounds of rejection. The Applicant notes that the reference is undated and not listed on an IDS.

CONCLUSION

Allowance of all claims is respectfully solicited. Any questions may be directed to the undersigned at 404.853.8028.

Respectfully submitted, this 27th day of March, 2007.


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